IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 199/2003

JAGDISH PRASAD SHARMA Vs. STATE OF RAJASTHAN

DATE: 06.07.2007.

HON'BLE MR. K.S. RATHORE, J.

Mrs. Naina Saraf for the petitioner.
Mr. B.S. Chhaba, Addl. GA for the State.

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The present writ petition is filed with the prayer that the respondents may be directed that the petitioner may be awarded back wages from 06.09.88 to 26.02.97 and further the petitioner may be made semi permanent from 01.04.88 and permanent from 01.04.96. It is also prayed that he may be assigned due seniority.

Learned counsel appearing for the petitioner has drawn attention of this Court towards the judgment rendered by the Division Bench of this Court in D.B. Civil Special Appeal (Writ) No. 642/97- State of Rajasthan Vs. Jagdish Sharma & another, dated 14.03.2002, whereby the Division Bench has observed as under:-

> "However, it will be open for the appellant to consider the question of back wages to be paid to the

> respondent workman and in case the respondent workman is able to satisfy the competent authority that he did not remain in gainful employment during the period of enforced idleness, it will be open for such authority to pass appropriate orders in accordance with law subject to its satisfaction based on objective facts with regard to the gainful employment of the respondent-workman or otherwise. It will also be open for such authority to give an opportunity to the department to meet with the case of the respondent workman as may be put by him on the question of gainful employment or otherwise for the entire period or in parts. It is also hereby made clear that the order dated 19.11.97 as has been passed by the Authority under of Payment of Wages Act, Baran in Claim No. 2/97 shall be no impediment against the concerned authority for deciding the question of grant of back wages to the workman for the period in question. The order as has been passed by the learned Single Judge is hereby set aside to the limited extent as above and the Labour Court's Award stands modified in the light of the directions as above and henceforth the rights of the parties with regard to the case of back wages shall be governed by the directions as have been given by us in this order, instead of the directions as have been given by the Labour Court in the impugned Award till the date of his reinstatement. In other aspects the award does not warrant any interference."

Learned counsel has further prayed that the petitioner be given the benefits as per the directions issued by the Division Bench including back wages and revision of the seniority list.

Since innocuous prayer is made by the petitioner, it is for the respondents to consider the case of the petitioner in accordance with the provisions of law and also in view of the directions issued the Division Bench of this Court and whatever due to the petitioner may be given if the petitioner is otherwise found eligible to get the benefits as claimed by the petitioner. It is expected from the respondents to do needful expeditiously but not later than three months from the date of passing of this order.

With the aforesaid observations, the writ petition stands allowed.

(K.S. RATHORE),J.

/KKC/